

1 Rene L. Valladares
2 Federal Public Defender
3 Nevada State Bar No. 11479
4 *Martin L. Novillo
5 Assistant Federal Public Defender
6 Virginia Bar No. 76997
7 411 E. Bonneville Ave., Ste. 250
8 Las Vegas, Nevada 89101
9 (702) 388-6577
10 Martin_Novillo@fd.org

11 *Attorney for Petitioner Jack Leal

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Jack Leal,

Plaintiff,

v.

Nevada Department of Corrections, *et al.*,

Defendants.

GMN

Case No. 2:21-cv-01965-GMN-VCF

**Unopposed motion to extend
deadline to file proof of service**

Petitioner Jack Leal respectfully moves this Court for an extension of time of fourteen (14) days to file the proof of service required by this Court in its April 10, 2023, Notice of Intent to Dismiss. (ECF No. 50). Counsel for Defendants does not oppose the request. In support of his motion, Mr. Leal represents as follows:

1 Counsel for Mr. Leal files the present motion in good faith. Mr. Leal initiated
2 the current matter by filing a Complaint on or about October 25, 2021. ECF No. 1.
3 This Court appointed counsel for Mr. Leal on January 30, 2023. ECF No. 45.
4 Undersigned counsel entered his appearance on February 16, 2023. ECF No. 47. On
5 April 10, 2023, this Court entered a Notice Regarding Intention to Dismiss as to
6 three parties, Scott Mattinson, T. Agustin, and H. Landsman, unless proof of service
7 was filed with the clerk by May 10, 2023. ECF No. 50. As described below,
8 undersigned counsel needs additional time to attempt to effect service upon
9 Defendant Landsman.

10 While attempting to ascertain the whereabouts of each above-referenced
11 individual, counsel discovered that Defendant Scott Mattinson has passed away.
12 Counsel, however, was able to locate the remaining two individuals and prepared
13 summonses. Counsel's investigator attempted to serve them on May 7, 2023. See
14 ECF Nos. 53, 54. The attempt was successful as to Defendant Agustin, but
15 unsuccessful as to Landsman who the investigator was not able to find at his
16 purported place of residence. Counsel's investigator has determined that he will try
17 to serve Mr. Landsman once more on Thursday May 11, 2023. Should he be
18 unsuccessful, Plaintiff's counsel will retain a process server. Counsel requests the
19 present extension in the event he has to go the latter route, which would require
20 additional time to complete the necessary expenditure forms and complete service.

21 On May 10, 2023, undersigned counsel attempted to reach out to opposing
22 counsel Taylor Rivich to see if Defendants would stipulate to an extension of time as
23 provided herein. Counsel was informed by an employee with the Office of the
24 Attorney General that Mr. Rivich is no longer with that office. Counsel then spoke
25 to Chief Deputy Attorney General D. Randall Gilmer. Mr. Gilmer represented that
26 Defendants do not oppose the request made to this Court as it pertains to extending
27 the deadline to serve Defendant Landsman.

This motion is not filed for the purposes of delay, but in the interests of justice, as well as in the interest of Mr. Leal. As noted above, counsel was able to effect service upon Defendant Agustin and will file the proof of service on May 11, 2023, irrespective of whether his investigator is able to serve Defendant Landsman. In addition, Mr. Leal will move to voluntarily dismiss his complaint against Defendant Mattinson who, as noted above, is deceased. Counsel for Mr. Leal respectfully requests this Court extend the deadline to file a proof of service by fourteen (14) days or until May 24, 2023, so that he may re-attempt service on Defendant Landsman.

Dated May 10, 2023.

Rene L. Valladares
Federal Public Defender

/s/ Martin L. Novillo
Martin L. Novillo
Assistant Federal Public Defender
Attorney for Plaintiff

IT IS SO ORDERED.

Cam Ferenbach
United States Magistrate Judge

5-11-2023

DATED _____